

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2643

Introduced by Assembly Members Gordon and Member Ma

February 24, 2012

An act to amend ~~Section 401.3~~ Sections 2635, 2635.5, and 5151 of, and to add Section 4985.5 to, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2643, as amended, ~~Gordon Ma. Property taxation: assessment: lien date: taxation.~~

(1) Existing law requires the tax collector of a county, when the amount of property taxes paid exceeds the amount due by more than \$10, to send notice of the overpayment to the taxpayer stating the amount of the overpayment and that a refund claim may be filed.

This bill would authorize the tax collector, when the amount of property taxes paid exceeds the amount due as of the date and time the payment is received, to process the refund without sending the notice described above and without the taxpayer filing a claim for refund, as provided.

(2) Existing law authorizes the tax collector to apply any refund due a taxpayer, or a taxpayer's agent, to specified delinquent taxes, except when a refund is due to a taxpayer because the taxpayer or the agent for the taxpayer submitted a replicated tax payment, as defined.

This bill would eliminate the exception described above.

(3) Existing law, in the case in which a taxpayer has failed to pay taxes on an assessment that is the subject of a pending assessment appeal, limits, as provided, the amount of penalty relief to the difference

between the final determination of value by the county board, as defined, and the value on the assessment roll for the fiscal year covered by the application. Existing law requires the county board to provide a specified notice to taxpayers impacted by these penalty provisions.

This bill would similarly limit penalty relief in the case in which a taxpayer has failed to pay taxes on an assessment that is the subject of a pending informal review due to a decline in value as a result of damage, destruction, depreciation, obsolescence, removal of property, or other factors causing a decline in value. This bill would require the county assessor to provide a specified notice to taxpayers impacted by these penalty provisions. This bill would also provide that these provisions shall apply in a county only if the county board of supervisors adopts a resolution or ordinance approving the penalty relief, as provided.

(4) Existing law requires the payment of interest on property tax refunds at the greater of 3% per annum or the county pool apportioned rate. Existing law requires, for each fiscal year, the county treasurer to advise the Controller of the county pool apportioned rate, and of computations made in deriving that rate, no later than 60 days after the end of that fiscal year.

This bill would extend the time period the county treasurer has to advise the Controller of the county pool apportioned rate from 60 to 90 days.

~~Existing property tax law requires the assessor to assess all property subject to general property taxation on the lien date, as provided.~~

~~This bill would make a technical, nonsubstantive change to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 **SECTION 1.** *Section 2635 of the Revenue and Taxation Code*
- 2 *is amended to read:*
- 3 2635. (a) When the amount of taxes paid exceeds the amount
- 4 due as of the date and time the payment is received by more than
- 5 ten dollars (\$10), the tax collector shall send notice of the
- 6 overpayment to the taxpayer. The notice shall be mailed to the
- 7 taxpayer's last known address and shall state the amount of

1 overpayment and that a refund claim may be filed pursuant to
2 Chapter 5 (commencing with Section 5096) of Part 9.

3 *(b) Notwithstanding subdivision (a) or any other law, if the tax*
4 *collector establishes that the refund is due to the taxpayer, the tax*
5 *collector may process the refund without sending the notice*
6 *required pursuant to subdivision (a) and without the taxpayer*
7 *filing a claim for refund.*

8 *SEC. 2. Section 2635.5 of the Revenue and Taxation Code is*
9 *amended to read:*

10 2635.5. Notwithstanding any other ~~provision of law, with the~~
11 ~~exception of Chapter 2.3 (commencing with Section 2780) of Part~~
12 ~~5,~~ the tax collector may apply any refund due a taxpayer, or the
13 taxpayer's agent, to any delinquent taxes due ~~on~~ for the same
14 property for which the same taxpayer, or his or her agent, is liable.

15 *SEC. 3. Section 4985.5 is added to the Revenue and Taxation*
16 *Code, to read:*

17 4985.5. (a) *Notwithstanding Section 2610.5, in the case of*
18 *cancellations made to the roll pursuant to Section 1646.1, where*
19 *a taxpayer has failed to pay an amount of tax computed upon*
20 *assessed value that is the subject of a pending informal review*
21 *based upon paragraph (2) of subdivision (a) of Section 51, the*
22 *relief from penalties shall apply only to the difference between the*
23 *county assessor's final determination of value and the value on*
24 *the assessment roll for the fiscal year covered by the application.*

25 (b) *The county assessor shall cause notice of the requirements*
26 *of this section to be mailed to each taxpayer or to be presented to*
27 *each taxpayer upon filing an application for an informal review*
28 *based upon paragraph (2) of subdivision (a) of Section 51 with*
29 *the county assessor, if that taxpayer will be impacted by the penalty*
30 *provisions of this section.*

31 (c) *This section shall apply only to those properties upon which*
32 *an application for an informal review based upon paragraph (2)*
33 *of subdivision (a) of Section 51 is pending before the county*
34 *assessor on the effective date of the act adding this section or those*
35 *applications for an informal review based upon paragraph (2) of*
36 *subdivision (a) of Section 51 that are filed with the county board*
37 *after the effective date of the act adding this section.*

38 (d) *This section shall apply in a county only if the board of*
39 *supervisors of the county, with the approval of the county's tax*

1 collector and the county's auditor, adopts a resolution or ordinance
2 approving this section.

3 SEC. 4. Section 5151 of the Revenue and Taxation Code is
4 amended to read:

5 5151. (a) Interest at the greater of 3 percent per annum or the
6 county pool apportioned rate shall be paid, when that interest is
7 ten dollars (\$10) or more, on any amount refunded under Section
8 5096.7, or refunded to a taxpayer for any reason whatsoever.
9 However, no interest shall be paid under the provisions of this
10 section if the taxpayer has been given the notice required by
11 Section 2635 and has failed to apply for the refund within 30 days
12 after the mailing of that notice. For purposes of this section,
13 "county pool apportioned rate" means the annualized rate of interest
14 earned on the total amount of pooled idle funds from all accounts
15 held by the county treasurer, in excess of the county treasurer's
16 administrative costs with respect to that amount, as of June 30 of
17 the fiscal year preceding the date the refund is calculated by the
18 auditor. For each fiscal year, the county treasurer shall advise the
19 Controller of the county pool apportioned rate, and of computations
20 made in deriving that rate, no later than ~~60~~ 90 days after the end
21 of that fiscal year. Any interest paid on a refund at a rate provided
22 for by this subdivision as it read prior to January 1, 2009, shall be
23 deemed to be correct.

24 (b) The interest rate provided for in subdivision (a) does not
25 apply to interest on refunds of those amounts of tax that became
26 due and payable before March 1, 1993. Interest on refunds of
27 amounts of a qualified tax shall be paid at that rate provided for
28 by this section as it read prior to January 1, 1993. As used in this
29 section, a "qualified tax" means a tax that became due and payable
30 before March 1, 1993, and had not been refunded as of April 6,
31 1995. This subdivision shall not be construed to affect the interest
32 paid on refunds of those amounts of tax that became due and
33 payable before March 1, 1993, and have been refunded as of April
34 6, 1995.

35 (c) (1) The interest computation period shall commence with
36 the date of payment of the tax when any of the following applies:

37 (A) A timely application for reduction in an assessment was
38 filed, without regard to whether the refund ultimately results from
39 a judgment or order of a court, an order of a board of equalization

1 or assessment appeals board, or an assessor's correction to the
2 assessment roll.

3 (B) The refund is pursuant to a roll correction resulting from
4 the determination or adjustment by the assessor or a local
5 assessment appeals board of a base year value.

6 (C) The refund results from a correction to the assessment roll
7 pursuant to Section 4831 or 4876.

8 (2) Interest on refunds of taxes on property acquired by a public
9 agency in eminent domain shall accrue from the date of recordation
10 of the deed.

11 (3) In all other cases the interest computation period shall
12 commence on the date of filing a claim for refund or payment of
13 the tax, whichever is later. However, in the event of the granting
14 of property tax relief pursuant to Section 69, 69.3, or 170, interest
15 is not payable on any resulting refund of taxes, provided that
16 payment of that refund of taxes is made within 120 days after the
17 county assessor has sent authorization for the reduction to the
18 county auditor.

19 (d) The computation of interest shall terminate as of a date
20 within 30 days of the date of mailing or personal delivery of the
21 refund payment.

22 (e) The interest charged shall be apportioned to the appropriate
23 funds, as determined by the county auditor.

24 (f) The amendments made to this section by Section 4 of Chapter
25 801 of the Statutes of 1996 shall apply to all refunds made after
26 January 1, 1997.

27 ~~SECTION 1. Section 401.3 of the Revenue and Taxation Code~~
28 ~~is amended to read:~~

29 ~~401.3. The assessor shall assess all property subject to general~~
30 ~~property taxation on the lien date as provided in Articles XIII and~~
31 ~~XIII A of the California Constitution and any legislative~~
32 ~~authorization thereunder.~~